

REMARKS

Claims 1, 11, 12 and 19-27 were pending at the time of the mailing of the outstanding Office Action. By this amendment, claims 1 and 21 have been amended.

In the Office Action of 3 January 2006, the Examiner rejected claims 1, 11, 12 and 19-27 under 35 U.S.C. § 102(b) as anticipated by US Pat. No. 6,445,948 to Somdahl et al. (hereinafter “Somdahl”). To anticipate a claim, a reference must teach all elements of the claim (MPEP § 2131). Claim 1 recites the presence of structures that compensate for discharge-induced swelling of the battery that include free spaces adjacent to the peripherally extending narrow side of the battery. Claim 21 recites similar structures. In the outstanding Office Action, the Examiner maintains that Somdahl’s retainer and spaces compensate for battery swelling. However, the Applicants continue to assert that Somdahl neither teaches nor suggests compensating structures that include free spaces adjacent to the peripherally extending narrow side of the battery, as recited in claims 1 and 21. The Applicants also continue to maintain that Somdahl merely provides “a retainer 386” which is designed to “prevent swelling of the battery 380 from contacting and possibly damaging electrical components 364.” In this way, it can be seen that the structures of Somdahl are designed more to restrict swelling of the battery than to compensate for it, as the free spaces of the present invention provide. Therefore, Somdahl can not be said to teach or suggest this element of claims 1 and 21.

Additionally, claims 1 and 21 have been further amended to recite that the underside of the component carrier is essentially flat and is located adjacent to the flat side of the battery. Support for this amendment may be found in Figs. 3, 5a and 7 and in paragraphs 0038, 0040 and 0042. In contrast, Somdahl provides an implantable medical device that contains a battery (380) located on the opposite side of the flat side of a circuit board (362) (see Figs. 3(f)-(g)). Somdahl

indicates, “Major surfaces 384 of battery 380 are sized and shaped to correspond with front face 370 of electronics module 360.” (column 13, lines 62-64). Front face 370 of electronics module 360 is clearly the opposite of the underside of flat circuit board 362 of Somdahl. Therefore, independent claims 1 and 21, as amended, further distinguish over Somdahl and claims 11, 12 and 19-27, which depend from and include all the limitations of claim 1 or claim 21, also patentably distinguish over Somdahl.

Claims 21 - 27 further distinguish over Somdahl. Claim 21 recites structures that compensate for discharge-induced swelling of the battery where these structures include joining elements between the battery and the circuit that permit movement of the circuit relative to the battery. The Examiner alleges that the swelling-compensating structures that include joining elements between the battery and the circuit that permit a relative movement of the circuit with respect to the battery are taught by Somdahl because both devices, “are configured for the placement of electronic components such as circuits, batteries, and the like.” The Applicants maintain that this is insufficient to establish a *prima facie* case of obviousness of claim 21. Claim 21 does not merely recite a configuration “for the placement of electronic components” but rather “structures that compensate for discharge-induced swelling of the battery; wherein the structures include joining elements between the battery and the circuit wherein said elements permit a relative movement of the circuit with respect to the battery.” Even if the structures of Somdahl do allow placement of electronic components, this does not anticipate structures that permit relative movement of the circuit and battery as recited. Furthermore, as Applicants previously stated, Somdahl’s attachment means do not teach or suggest any allowance for movement of the circuit relative to the battery. To the contrary, the specific examples of Somdahl, “adhesive, tape, clamp or other mechanical attachment device” (column 14, lines 61 -

63 do not suggest relative movement, but rather, suggest an absence of relative movement, thereby teaching away from the invention as recited in claim 21.

In view of the foregoing arguments the applicant submits that the claims are in a condition to permit allowance. Withdrawal of the rejection of claims 1, 11, 12 and 19-27 under 35 U.S.C. § 102(b) and issuance of a Notice of Allowance is respectfully requested.

The outstanding final Office Action was mailed on 3 January 2006. The Examiner set a shortened statutory period for reply of three months from the mailing date of the final action. A response after final office action was filed 3 March 2006 and the advisory action was not mailed until after the end of the three month shortened statutory period. Therefore, the extension fee for reply to the final office action is calculated from the mailing date of the advisory action, 10 April 2006. A petition is hereby made for a one month extension of time for response. The Commissioner is authorized to charge any fee or to credit any overpayment associated with the filing of this paper to Deposit Account 15-0450.

Respectfully submitted,



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